



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 200300493

Date: November 4, 2005

Comments Due: December 6, 2005

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Sierra Moon Unit 2 Project. The project site encompasses approximately 167.86-acres with 3.43-acres of jurisdictional wetlands that occur throughout the property. Of the 3.43-acres, a total of 1.62-acres includes Keefer Slough. Grading of the site and development of the project would result in the fill of 1.14-acres of onsite seasonal wetlands and vernal pools. A total of 2.29-acres of existing vernal pools, riverine seasonal wetlands and intermittent drainage is proposed to be preserved within a 98.57-acre open space area. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Steve Schuster, Schuster Homes, 4011 Spyglass Road, Chico, California 95973

LOCATION: The Sierra Moon project site consists of approximately 167.86-acres of land located in an unincorporated area of Butte County, north of the City of Chico. This site is located adjacent to Mud Creek and Keefer Slough. The site is bordered by Hicks Lane to the east and low density rural residential development to the west and northwest. The Chico Municipal Airport is directly east of the project site. The site is located in Section 33, Township 23 north, Range 1 East, on the USGS 7.5 Minute Richardson Springs & Nord 7.5 Quadrangle, MDBM.

The project is outside the Chico city limits, but is considered to be within Chico's "Urban development area" and northeast planning quadrant, according to Chico's 1999 General Plan.

PROJECT DESCRIPTION: Based on the available information, the overall project purpose is to construct a residential development consisting of single-family units and a 98.57-acre open space area.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 3.43-acres of jurisdictional wetlands and other waters features and other waters of the United States. There are 0.02-acres of seasonal wetlands, 1.06-acres of vernal pools and riverine features consisting of 1.62-acres of Keefer Slough and associated seasonal wetlands totaling 0.73-acres. The site is characterized by a gentle rolling terrain with elevation ranging from approximately 195 to 220 feet above mean sea level. Most of the project site and surrounding area support non-native annual grassland. Wetlands, including vernal pools located on the project site support various types of plants. Vernal pool species of plants observed on-site include slender popcorn flower (*Plagiobothrys stipitatus*), dwarf woolly heads (*Psilocarphus brevissimus*), Folded downingia (*Downingia ornatissima*), coyote thistle (*Eryngium yaseyi*) and Fremont's goldfields (*Lasthenia fremontii*). Plants observed within the seasonal wetlands include some vernal pool species previously mentioned and non-natives such as Mediterranean barley (*Hordeum marinum*), Italian ryegrass (*Lolium multiflorum*), hyssop loosestrife (*Lythrum hyssopifolium*), and curly dock (*Rumex crispus*).

Alternatives. The applicant has provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered in accordance with Section 404(b)(1).

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. For wetlands that are not protected within the proposed 98.57-acre open space area and are not feasible or practicable to completely avoid, the project applicant proposes to buy mitigation credits at an approved wetland mitigation bank or other approved mitigation site or to prepare and implement a wetland mitigation plan for construction of wetlands at an off-site mitigation area, subject to approval of the Corps.

Currently, there exists a Development Agreement between the property owner (applicant) and the County of Butte for an open space preserve on site, as well as an easement location between Mud Creek and Keefer Slough. This agreement does not ensure that the proposed open space area and easement areas are protected in perpetuity. The agreement was adopted on December 1, 1998 and is set to commence fifteen (15) years thereafter. To protect the open space area and easement between Mud Creek and Keefer slough in perpetuity, The Corps would likely require a special condition on the permit.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification as required under Section 401 of the Clean Water Act from the California Regional Water Quality Control Board is required for this project. The applicant has not indicated they have applied for certification.

HISTORIC PROPERTIES: The applicant has not provided a cultural resources report for the project. A report will need to be completed and submitted to our office for compliance with Section 106 of the National Historic Preservation Act of 1966. It is not known at this time if there are any known pre-historic or historic cultural resources in the project area. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

ENDANGERED SPECIES: Potential habitat for species listed under the Federal Endangered Species Act occurs within the project vicinity, including the federally listed threatened bald eagle (*Haliaeetus leucocephalus*), endangered vernal pool tadpole shrimp (*Lepidurus packardii*), threatened vernal pool fairy shrimp (*Branchinecta lynchei*) and conservancy fairy shrimp (*Branchinecta conservancy*). The project site is not located within an area proposed for designation as critical habitat for vernal pool tadpole shrimp, vernal pool fairy shrimp and Butte County meadowfoam (*Limnanthes floccosa* ssp *californica*). Biological surveys for Butte County meadowfoam were negative. Other Federally-listed species that may be affected by the proposed project include the winter-run chinook salmon (*Oncorhynchus tshawytscha*) and the central valley spring-run chinook salmon (*Oncorhynchus tshawytscha*), or their designated critical habitat. The Corps has initiated consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act.

ESSENTIAL FISH HABITAT: The proposed project may adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act. The Corps has initiated consultation with the National Marine Fisheries Service, pursuant to Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity

will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230), or of their criteria.

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200300493, must be submitted to Ms. Laura Whitney, Project Manager, US Army Corps of Engineers, Sacramento District, Sacramento Valley Regulatory Office, 1325 J Street, Room 1480, Sacramento, California 95814-2922 or Email: Laura.A.Whitney@usace.army.mil on or before **December 6, 2005**.

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Ms. Laura Whitney, 916-557-7455, Laura.A.Whitney@usace.army.mil.

Attachments: 3 drawings